

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/615, 683 07/14/00 STOCKMAN

J 4554V87215

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QMS2/0627

EXAMINER

VITOVITCH, G

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

06/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/615,683

Applicant(s)

Stockman

Examiner
Gregory M. Vidovich

Art Unit
3727



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Jul 14, 2000

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on Jul 14, 2000 is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892)

18) Interview Summary (PTO-413) Paper No(s). _____

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

20) Other: _____

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DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
2. The drawings are objected to because:
 - a) figures 1 and 2 include lead lines with no reference characters;
 - b) the upper grooves in elements 4 and 4a in figures 3 and 4 are not shown in figure 2;
 - c) figures 1-3 do not appear to be a "cross section" as stated at page 3 of the disclosure;
 - d) it is unclear as to what applicant intends as the latch 12, 13 and as to how this latch performs;
 - e) the reference characters in figure 4 are too small and not readily legible;
 - f) the list of chair parts in figure 4 includes markings which should be corrected (it is noted that this list of elements preferably should be deleted). Correction is required.

Specification

3. The disclosure is objected to because of the following informalities:
 - a) it is unclear as to how the latch 12, 13 operates. Applicant provides no disclosure to this feature and the drawings do not show any detail which would allow an ordinary artisan to properly understand how this latch works; and

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b) at page 6 of the disclosure, it is unclear as to how the strap properly interacts with the frame since it would appear to interfere with closure and opening of the frame. Appropriate correction is required.

4. The disclosure includes the following informalities:

- a) claim 1, line 5, "the" apparently should be deleted; and
- b) claim 8, line 2, before "backpack" and "chair" applicant should insert --the--.

Appropriate correction is requested.

Claim Rejections - 35 U.S.C. § 112

5. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, as discussed above, the latch, which is part of the "locking assembly" is vaguely described rendering an ordinary artisan to speculate as to how this latch operates and performs. Accordingly, the latch, which is part of the locking assembly, is subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. See also claims 6 and 13.

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6. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, as discussed above, the operation of the locking assembly is unclear rendering the claim indefinite. See also claims 6 and 13.

Regarding claim 2, line 3, it is unclear as to the relationship of the chair mode with that set forth in claim 1.

Applicant is respectfully requested to thoroughly review all the claim for similar informalities and to correct any informalities of which applicant may become aware in the claims.

Claim Rejections - 35 U.S.C. § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 4, 5, 6, 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Black.

Regarding claim 1, the back reference discloses a backpack and chair apparatus comprising a pack (7), frame (4), straps (25), sub-frame (10, 11), and a locking assembly (20-23) as claimed.

Regarding claim 2, see figures 1 and 5.

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Regarding claim 4, see lead line 16 which is a seat cushion which performs as claimed (see figures 1 and 5).

Regarding claim 5, the cushion is “removably” attached to the sub-frame if so desired. Applicant provides no means in the claim for removing the cushion which structurally differs from the structure set forth in the Black reference whereby the cushion is clearly capable of being physically removed.

Claim Rejections - 35 U.S.C. § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of MacLean ('064).

Regarding claim 3, although it is unclear if the pack is removable from the frame, attention is directed to the MacLean reference which discloses this well known feature (see column 4, lines 40-45). It would have been obvious, if not already to removably attach the pack in Black to the frame as, for example, illustrated in MacLean in order to increase utility of the pack by use without the frame if so desired.

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11. Claims 7, 8, 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Fisher.

Regarding claim 7, although the locking assembly does not include a jointed arm, attention is directed to the Fisher reference which discloses another chair having a sub-frame (6) and locking assembly (see lead lines 14, 16) which is a jointed swing arm (see figure 1) which includes a member (16) removably attachable to a frame (1) to lock the frame, sub-frame, and locking assembly in place to stabilize the chair. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a swing arm in connection with the element 3 in Black as, for example, illustrated in Fisher in order to stabilize the chair when in the chair mode.

Regarding claim 14, the locking assembly comprises a plurality of jointed swing arm (see elements 20 and 21 in Black in combination with element 16 in Fisher). Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second swing arm in connection with the leg assemblies in Black in order to enhance stability.

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Fisher as applied above and further in view of MacLean ('064).

Regarding claim 15, although it is unclear if the pack is removable from the frame, attention is directed to the MacLean reference as discussed above. It would have been obvious, if not already to removably attach the pack in Black to the frame as, for example, illustrated in MacLean in order to increase utility of the pack by use without the frame if so desired..

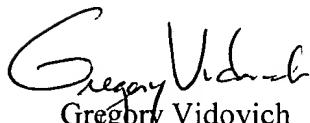
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13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Fisher as applied above and further in view of Gatling.

Regarding claim 17, although the cushion in Black does not include a pad removable therefrom, attention is directed to the Gatling reference which discloses another cushion having foam provided within a shell of canvas material (see column 2, lines 30 et seq.). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cushion in Black to have a foam filling as, for example, disclosed in Gatling in order to provide additional comfort to the user. Although it is unclear if the cushion in Black as modified above includes a zipper, the examiner takes Official Notice that it is very well known to provide a zipper on a cushion to provide easy access means to replace the interior padding. One very common example is sofa cushions. It further would have been obvious to provide a zipper on the cushion of Black as modified above in order to provide easy access to replace the padding when needed.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Neider, Erbeau, Kay, and Echeverri references each disclose a seating device.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Vidovich whose telephone number is (703) 308-1513.


Gregory Vidovich
Primary Examiner
Art Unit 3727
June 21, 2001

Attachment for PTO-948 (Rev. 03/01, or earlier)

6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.